



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, २३ जनवरी, १९६८/३ माघ, १८८६

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATION

Simla-4, the 18th January, 1968

No. 1-9/68-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964 the following Bills as introduced in the Legislative Assembly on the 18th January, 1968 are hereby published in the Himachal Pradesh Government Gazette:—

1. The Salaries and Allowances of Members of the Legislative Assembly (Himachal Pradesh) (Amendment) Bill, 1968, (Bill No. 1 of 1968).
2. The Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Bill, 1968 (Bill No. 9 of 1968).

D. B. LAL,
Secretary.

Bill No. 1 of 1968

**THE SALARIES AND ALLOWANCES OF MEMBERS OF THE
LEGISLATIVE ASSEMBLY (HIMACHAL PRADESH)
(AMENDMENT) BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*further to amend the Salaries and Allowances of Members of the
Legislative Assembly (Himachal Pradesh) Act, 1963.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the
Eighteenth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Salaries and Allowances of Members
of the Legislative Assembly (Himachal Pradesh) (Amendment) Act, 1968.

(2) It shall be deemed to have come into force on the 18th day of 5
March, 1967.

Amendment
of section 2.

2. In section 2 of the Salaries and Allowances of Members of the
Legislative Assembly (Himachal Pradesh) Act, 1963 (hereinafter referred
to as the principal Act),—

(i) for clause (d), the following clause shall be substituted; namely:— 10

“(d) “Controlling Officer” means the Secretary to the Assembly or
such other officer as he may, by Notification in the Official Gazette,
appoint;”

(ii) after clause (e), the following clause shall be inserted; namely:—

“(ee) “family” means the wife or husband, as the case may be, of the 15
member, and where the member has more than one wife, any
one wife, residing with the member, and the legitimate
children and step-children residing with, and wholly dependent on,
such member;”

(iii) in clause (h)— 20

(a) in the opening paragraph, for the words “and includes”, the words
“and includes, except in the case of a member who ordinarily resides
at a place where a session of the Assembly or a sitting of the
Committee is held or where any other business connected with his
duties as such member is transacted”, shall be substituted; 25

(b) the Explanation shall be omitted;

(iv) in clause (i), the word “and” occurring at the end shall be omitted;

(v) in clause (j), the proviso shall be omitted;

(vi) after clause (j), the following clause shall be inserted; namely:—

“(k) “usual place of residence” in relation to a member means the 30
place where the member personally resides or works for gain within
the Union territory of Himachal Pradesh.”

Amendment
of section 3.

3. In section 3 of the principal Act,—

(i) in the opening paragraph, for the letters and figures “Rs. 12.50 nP.”,
the letters and figures “Rs. 20” shall be substituted; 35

(ii) the provisos shall be omitted.

4. In sub-section (1) of section 3A of principal Act, after the word "member", the words "and his family" shall be inserted. Amendment of section 3A.

5. In the note to paragraph 1 of the First Schedule to the principal Act, for the letters and figures "Rs. 12.50 nP.", the letters and figures "Rs. 20" shall be substituted. Amendment of the First Schedule.

STATEMENT OF OBJECTS AND REASONS

In view of the present day high cost of living, it has become necessary to raise the rate of daily allowance of all Members of the Legislative Assembly, irrespective of their place of residence, from Rs. 12.50 to Rs. 20.00. It has also been considered necessary to extend the medical facilities to the families of the Members. This Bill seeks to achieve the aforesaid objects besides making provision for other minor matters.

KARAM SINGH,
Law Minister.

SIMLA:

The 18th January, 1968.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides increase of daily allowance to the Members of the Legislative Assembly of the Union territory of Himachal Pradesh and clause 4 extends free medical facilities to the members of the families of the Members of the Legislative Assembly. These charges may involve a recurring expenditure from the consolidated fund of Himachal Pradesh to the tune of Rs. 1,30,100 voted per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

RECOMMENDATIONS OF THE ADMINISTRATOR
UNDER SECTION 23 OF THE GOVERNMENT OF UNION
TERRITORIES ACT, 1963

(Law Department File No. 1-19/64-LR)

The Administrator having been informed of the subject-matter of the Salaries and Allowances of Members of the Legislative Assembly (Himachal Pradesh) (Amendment) Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill in the Legislative Assembly.

Bill No. 9 of 1968

**THE HIMACHAL PRADESH (TRANSFERRED TERRITORY)
TENANTS (PROTECTION OF RIGHTS) BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to protect the tenants in the transferred territory in the Union territory of Himachal Pradesh against eviction from their holdings and for the matters incidental or ancillary thereto.

BE it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Eighteenth Year of the Republic of India as follows:—

- 5 1. (1) This Act may be called the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968.

Short title and extent.

(2) It extends to the whole of the transferred territory in the Union territory of Himachal Pradesh.

2. In this Act, unless the context otherwise requires,—

Definitions

- 10 (a) 'competent authority' means any person or authority authorised by the Government by notification in the Official Gazette to perform the functions of a competent authority under this Act for such area as may be specified in the notification;

(b) 'Government' means the Lieutenant Governor of Himachal Pradesh;

(c) 'Official Gazette' means the Rajpatra, Himachal Pradesh;

15 (d) 'prescribed' means prescribed by rules made under this Act;

(e) 'transferred territory' means the territory transferred to the Union territory of Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966;

31 of 1966

(f) all other words and expressions used in this Act and not defined but defined in—

20

13 of 1955

(i) the Pepsu Tenancy and Agricultural Lands Act, 1955, in relation to the area in which that Act is in force;

or

10 of 1953

25

(ii) the Punjab Security of Land Tenures Act, 1953, in relation to the area in which that Act is in force, shall have the meanings respectively assigned to them in the Pepsu Tenancy and Agricultural Lands Act, 1955 or, as the case may be, in the Punjab Security of Land Tenures Act, 1953.

13 of 1955

10 of 1953

- 30 3. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract—

Stay of eviction proceedings.

(a) no suit, proceedings in execution of decrees or orders, or other proceedings for eviction of a tenant from his holding or any part thereof shall lie in any court; and

- (b) all suits, proceedings in execution of decrees or orders and other proceedings for such eviction pending in a court at the commencement of this Act shall, for a period of two years from such commencement, be stayed.

(2) Nothing in sub-section (1) shall preclude a court from ordering the 5
eviction of a tenant from his holding or any part thereof—

- (a) if the landowner is a member of the Armed Forces and is entitled to resume the land comprised in the holding or such part under the provisions of the Punjab Security of Land Tenures Act, 1953 10 of 1953
or the Pepsu Tenancy and Agricultural Lands Act, 1955, as the 10
case may be; or 13 of 1955
- (b) if the tenant has used the land comprised in the holding or such part in a manner which renders it unfit for the purpose for which it was let; or
- (c) where the rent is payable in kind, if the tenant has failed without 15
sufficient cause to cultivate the land comprised in the holding or such part in the manner or to the extent customary in the locality in which the holding or such part is situate; or
- (d) if a decree for arrears of rent in respect of the tenancy has been passed against the tenant and has not been satisfied within six 20
months thereof.

Suits or other proceedings for eviction due to non-payment of arrears of rent to be treated as suits or proceedings for recovery of arrears of rent.

4. Notwithstanding anything contained in section 3, if at the commencement of this Act, any suit or other proceeding for eviction of a tenant for non-payment of arrears of rent is pending in a court, the court may, on an application made to it within the prescribed period by the landowner treat such 25
suit or other proceeding as a suit or other proceeding for recovery of arrears of rent and dispose it of accordingly.

Reinstatement of tenant.

5. (1) Where a tenant, who was in occupation of his holding or any part thereof on or after the 1st day of November, 1966 but has been evicted from such holding or part before the commencement of this Act on any ground 30
other than any of those mentioned in sub-section (2) of section 3, the competent authority may on his own motion or on an application made by the tenant initiate action for the reinstatement of such tenant in accordance with the provisions of this section.

(2) The competent authority shall give notice to the landowner and to the 35
person, if any, in possession of such holding or part thereof and shall, on being satisfied, after such summary inquiry as he may consider necessary, that the tenant was evicted on any ground other than any of those mentioned in sub-section (2) of section 3, order that the tenant be reinstated in such holding or part and that the person in possession of such holding or part be evicted 40
therefrom:

Provided that if at the time of making any such order there are any standing crops in such holding or part, the competent authority shall not enforce the order in respect of such holding or part, as the case may be, until the crops are harvested.

(3) Every order made by the competent authority under this section shall be enforceable in such manner as if it were a decree for eviction passed by a competent court.

5 6. (1) Notwithstanding anything contained in this Act, a tenant may Surrender his tenancy by giving in writing to the landowner and to the competent authority on or before the fifteenth day of January in any year, notice of by tenant. his intention to surrender the tenancy at the end of the agricultural year then current.

10 (2) No surrender under sub-section (1) shall be made in favour of any person other than the Government.

15 (3) On receipt of a notice under sub-section (1), the competent authority shall after making an inquiry in the prescribed manner accept the surrender in favour of the Government and take possession of the land, if that authority is satisfied that the surrender is being made voluntarily and in good faith and that authority shall forthwith take steps to let out the land to any other person in accordance with such rules as may be made under this Act.

20 (4) The person to whom any land is let under sub-section (3) shall be liable to pay the rent thereof in accordance with the provisions of section 8, directly to the landowner from the commencement of the agricultural year next following the date on which the land is let to him.

25 (5) Where any land surrendered under this section is not let out for the agricultural year next following the date on which the surrender is accepted and the land is taken possession of by the Government, the Government shall be liable to pay the same rent to the landowner as he would have been entitled to get had the land been let out for that agricultural year.

30 7. (1) If a tenant abandons his tenancy and ceases to cultivate his holding either by himself or by some other person, the landowner of such tenancy shall within sixty days of such abandonment inform the competent authority in writing that the tenant has abandoned such tenancy and the competent authority may, on receipt of such intimation and after satisfying itself that the tenant has actually abandoned his tenancy, take possession of the land appertaining to such tenancy. Abandonment by tenant.

35 (2) Where any land is taken possession of by the competent authority under sub-section (1) that authority shall forthwith take steps to let out that land to any other person in accordance with such rules as may be made under this Act.

40 (3) The person to whom any land is let under sub-section (2) shall be liable to pay the rent thereof in accordance with the provisions of section 8, directly to the landowner from the commencement of the agricultural year next following the date on which the land is let to him.

45 (4) Where any land taken possession of by the competent authority under this section is not let out for the agricultural year next following the date on which the land is taken possession of, the Government shall be liable to pay the same rent to the landowner as he would have been entitled to get had the land been let out for that agricultural year.

50 8. Notwithstanding anything contained in any other law or any contract, the maximum rent payable by a tenant for any land held by him as such shall not exceed one-fourth of the crop of such land or value thereof as determined in the prescribed manner and where the customary rent is less than one-fourth, the maximum rent shall be such customary rent. Amount of maximum rent payable

- Revision** 9. The Financial Commissioner may, of his own motion or on an application made to him in that behalf by any person aggrieved by any order passed by a competent authority call for the record of any case disposed of by the competent authority under this Act and may pass such orders thereon as may appear to him to be just and equitable: 5
- Provided that no order affecting any person shall be passed under this section unless such person is given an opportunity of being heard in the matter.
- Exemption** 10. Nothing in this Act shall apply to lands belonging to Government.
- Penalty** 11. (1) No landowner shall enter and take possession of any land which has been abandoned or surrendered by a tenant. 10
- (2) If a landowner contravenes the provisions of sub-section (1), he shall be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees or with both.
- Power to make rules.** 12. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 15
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for—
- (a) the period within which an application may be made to a court under section 4;
 - (b) the manner in which the inquiry may be made under sub-section (3) of section 6 and the procedure in accordance with which lands surrendered may be let out under that sub-section; 20
 - (c) the procedure in accordance with which lands abandoned by tenants may be let out under sub-section (2) of section 7;
 - (d) the manner in which the value of crops may be determined under section 8; and 25
 - (e) any other matter which is to be or may be prescribed under this Act.
- (3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 30 35

STATEMENT OF OBJECTS AND REASONS

There is a growing tendency amongst the landowners in the transferred territory of Himachal Pradesh to eject or dispossess tenants from their holdings. This tendency has assumed serious proportions. This Bill seeks to protect the tenants in the transferred territory against eviction from their holdings and for the matters incidental or ancillary thereto.

SIMLA:

The 18th January, 1968.

LAL CHAND PRARTHI,

Revenue Minister.

FINANCIAL MEMORANDUM

Clause 6(5) of the Bill provides that when any land surrendered is not let out for the agricultural year next following the date on which the surrender is accepted and the land is taken possession of by the Government, the Government shall be liable to pay the same rent to the landowner as he would have been entitled to get, had the land been let out for that agricultural year. Clause 7(4) of the Bill contains a similar provision in respect of the abandoned land. Payment of rent by Government to the landowners in respect of the abandoned land is not normally anticipated. It may, however, be necessary to pay the rent to the landowner in some stray cases for the interim period between the acceptance of the surrender from the former tenant and settlement of new tenants on the land in question. Such cases are not likely to exceed 10 or so in a full year and the expenditure on this account may not exceed Rs.1000.00 a year considering the low rentals of agricultural holdings. There will be no additional expenditure on establishment as the existing revenue machinery is intended to be utilised for operating the provisions of this Act.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Administrator (Lieutenant Governor) of the Union territory of Himachal Pradesh to make rules for carrying out the purposes of this Act. The proposed delegation is normal in character.

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(Revenue Department File No. 1-7/67-Rev.II.)

The Administrator (Lieutenant Governor) having been informed of the subjectmatter of the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill in the Legislative Assembly.